

EXHIBIT 6

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

DONNA CURLING, ET AL.,	:	
	:	
PLAINTIFFS,	:	
vs.	:	DOCKET NUMBER
	:	1:17-CV-2989-AT
BRAD RAFFENSPERGER, ET AL.,	:	
	:	
DEFENDANTS.	:	

TRANSCRIPT OF BENCH TRIAL - VOLUME 5A PROCEEDINGS
BEFORE THE HONORABLE AMY TOTENBERG
UNITED STATES DISTRICT SENIOR JUDGE
JANUARY 16, 2024

**MECHANICAL STENOGRAPHY OF PROCEEDINGS AND COMPUTER-AIDED
TRANSCRIPT PRODUCED BY:**

OFFICIAL COURT REPORTER:	SHANNON R. WELCH, RMR, CRR
	2394 UNITED STATES COURTHOUSE
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1 **A.** Correct. He was operations. Think of him strictly
2 operations. He was in charge of training, distribution, those
3 big things.

4 THE COURT: Are there questions occasioned by mine?

5 Because if this witness is not familiar with the
6 report other than, you know, as to the questions I've pointed,
7 I don't know that it is -- how worthwhile it would be to
8 examine him about it, given what he has stated so far. It
9 doesn't mean I have made a final decision on the report, but
10 I'm not sure it is essential at this point.

11 MR. CROSS: That may be right, Your Honor. I know my
12 colleague had a few questions just to see if he knows --
13 understanding he hasn't seen the report, I don't know if
14 anything was conveyed to him, so I thought my colleague may
15 have --

16 THE COURT: He can ask that.

17 MR. CROSS: -- just a couple of questions to see if
18 he has any insight.

19 THE COURT: All right.

20 RE CROSS-EXAMINATION (Further)

21 BY MR. MARTINO-WEINHARDT:

22 **Q.** Just briefly, Mr. Beaver.

23 You were involved in the coordination in setting up this
24 2019 assessment of the BMDs; right?

25 **A.** I would have been the person who would have approved

1 having Fortalice do it, but the actual working as a project
2 with them would have been one of my project people.

3 **Q.** Are you aware of any of the results of that assessment?

4 **A.** No.

5 **Q.** Are you aware whether Fortalice was able to hack the BMDs?

6 **A.** No.

7 **Q.** Are you aware whether Fortalice was able to obtain access
8 to log files?

9 **A.** No.

10 **Q.** Are you aware of whether Fortalice was able to change any
11 log files on the BMDs?

12 **A.** No.

13 **Q.** Are you aware of whether Fortalice was able to obtain
14 super-user access?

15 **A.** No.

16 **Q.** Whether they were able to access the operating system of
17 the BMDs?

18 **A.** No.

19 **Q.** Do you know whether Fortalice in their 2019 assessment
20 were able to change the operation of the BMD in any way?

21 **A.** No.

22 **Q.** Do you know whether Fortalice in their 2019 assessment was
23 able to change the way votes would be tabulated when voting on
24 a BMD?

25 **A.** No.

1 Q. Who would have that knowledge?

2 A. Probably have to ask Fortalice who worked with them on
3 this.

4 MR. BOYLE: Your Honor, I'd just like -- for the
5 record, I just -- clearly, Mr. Beaver has testified repeatedly
6 he has no knowledge of this report.

7 I don't want my silence to be taken as a waiver of
8 these questions to any other witness because we think the
9 report is work product, and you have already ruled on that.
10 And even if there were a witness with knowledge, that would be
11 improper questions of that witness.

12 THE COURT: All right. Your assertions are all
13 properly done to document your record as to your position.
14 BY MR. MARTINO-WEINHARDT:

15 Q. Mr. Beaver, you weren't at all curious about what
16 Fortalice found in its 2019 assessment of these BMDs?

17 A. I wouldn't say I wasn't curious. I have lots of other
18 things that are on my plate. Nothing got flagged to me that I
19 needed to address, so it never came up again.

20 Q. So as CIO, you had -- it wasn't raised to you what the
21 results of this assessment of your new voting system that would
22 be implemented across Georgia were?

23 A. And I have said before, I am the CIO for the Secretary of
24 State's IT systems. BMDs are not part of my domain.

25 THE COURT: Whose domain are they under then?

1 THE WITNESS: That would be the counties.

2 THE COURT: You mean when they are implemented there?

3 THE WITNESS: Yes.

4 THE COURT: All right.

5 MR. MARTINO-WEINHARDT: No further questions, Your

6 Honor.

7 THE COURT: Mr. Brown, did you have anything more?

8 MR. BROWN: No, Your Honor. Thank you.

9 THE COURT: Mr. Oles?

10 MR. OLES: Nothing further.

11 THE COURT: All right.

12 MR. BOYLE: Yes. We are done. Thank you.

13 THE COURT: All right. Thank you very much. Please

14 don't discuss your testimony with anyone because you could

15 still be recalled. All right? Thank you very much.

16 And you have gone on post December to where? I know

17 you went --

18 THE WITNESS: To Austin.

19 THE COURT: To Austin?

20 THE WITNESS: Austin, Texas --

21 THE COURT: Wow.

22 THE WITNESS: -- to take care of grandkids.

23 THE COURT: To take care of grandkids. Well, good

24 luck with that, and I'm sorry that you might still be subject

25 to recall. But that is great.

1 Who is plaintiffs' next witness?

2 MR. CROSS: The plaintiffs call Gabriel Sterling to
3 the stand.

4 **(Witness sworn)**

5 COURTROOM DEPUTY CLERK: Please have a seat. If you
6 would, loud and clearly state your name and spell your full
7 name for the record.

8 THE WITNESS: My name is Robert Gabriel Sterling,
9 R-O-B-E-R-T, G-A-B-R-I-E-L, S-T-E-R-L-I-N-G.

10 Whereupon,

11 ROBERT GABRIEL STERLING,
12 after having been first duly sworn, testified as follows:

13 CROSS-EXAMINATION

14 BY MR. CROSS:

15 **Q.** Good afternoon, Mr. Sterling.

16 **A.** Good afternoon.

17 **Q.** I appreciate you being here.

18 Mr. Sterling, what is your current role with the Secretary
19 of State's office?

20 **A.** I am the chief operating officer, chief financial officer,
21 and the director of licensing.

22 **Q.** Sounds like a hat trick.

23 What are your general roles and responsibilities at the
24 Secretary of State's office?

25 **A.** They are very broad. We're a small agency. I am --

1 oversee operations, generally speaking, both the financial
2 side. IT reports to me.

3 Obviously, being director of licensing, the licensing
4 division reports directly to me, admin, which involves AR, AP,
5 all the financial side. And I have an indirect operational
6 role in most of the different divisions of the agency.

7 I also handle some duties in terms of speaking to the
8 public. And although it is not a direct thing of dealing with
9 legislative issues and budgetary issues as in like -- as in
10 this week, it is budget week. And the Secretary has a joint
11 budget hearing tomorrow, and I'm having to work on preparation
12 for that if I'm not here.

13 **Q.** How long have you been the chief operating officer?

14 **A.** There's two different sections of time. Originally, from
15 January 14 of 2019, until sometime in November of 2019, I held
16 officially that role. I exited that role to be the
17 implementation -- what was our full title for that one --
18 implementation manager for the statewide voting system. And
19 part of the rationale for doing that was we had to hire
20 somebody to do my duties. And the budget constraints, I had to
21 exit that role. And also, bond money which was paying for the
22 project could not pay for direct employee of the State. So we
23 were going to be paying for the project management out of that
24 bond anyway.

25 So I held that role in November, exited it for a short

1 had to procure a system that was EAC-certified. So the EAC
2 looked at all of these things and have baselines across those.

3 Now, the security, front and foremost for them, not
4 necessarily. It is also accessibility, usability, those kind
5 of things.

6 **Q.** I'm basically looking at what happens when it gets
7 implemented not --

8 **A.** I'm trying to walk through it all. I apologize if I --
9 I'm not trying to be pedantic. I'm just trying to walk through
10 the whole system, how we view it on our side.

11 So then we procured the equipment and started distributing
12 it to counties. The first step to almost all cybersecurity --
13 you can ask most experts -- is physical security. By law and
14 by rule, counties have to account for that physical security.

15 Now, the State backs them up, and actually, in conjunction
16 with the federal government for the last two cycles in a row,
17 we partnered with Department of Homeland Security to go look at
18 the physical access around any of the places where all the
19 State-owned equipment is held in all 159 counties. That is
20 step one.

21 And we worked with DHS to work with the counties because
22 it is the counties' responsibility to keep that safe.
23 Obviously, Coffee County did not do well on that front.

24 Beyond that, the cybersecurity side is we work with
25 Dominion. We have some issues around this in terms of the fact

1 that EAC certification and process takes an extremely long
2 time, but we are also wanting to make sure that our stuff is
3 clean.

4 So we have gone through -- we use Pro V&V, which is our
5 lab. The State pays for them. And they have done post
6 election audits at random locations from random pieces of
7 equipment to do the hash testing and everything.

8 At the last GAVREO conference, we distributed a new
9 third-party tool to allow for the individuals of the counties
10 to run a hash value test to make sure their EMS has the correct
11 hash value as running what we call the golden record. So the
12 State is working with the county to provide them the tools to
13 do those kind of evaluations.

14 The L&A testing is done at the county level, but it is a
15 public process to make sure that --

16 **Q.** Are you talking about the logic and accuracy?

17 **A.** Logic and accuracy.

18 And the State builds the ballots. The counties will sign
19 off on the ballots. So the county is kind of holding the State
20 accountable and the State is holding the county accountable for
21 when we build those ballots, which is the first step for
22 keeping these things secure.

23 So we can't have a bad actor in the State just
24 distributing to the counties and nobody sees how the ballots is
25 actually run. So then the counties have to review those things

1 and sign off on them. Are there mistakes and errors made?
2 Yes, because there's humans involved in the process. And we do
3 our best to mitigate those, again, given the fact I think we
4 have something close to 18,000 ballot styles on a given day --
5 sorry, 18,000 ballot styles on a given election.

6 And in the 2020 election, we had 36,000 ballot styles
7 because of the nature of the presidential preference primary
8 and the regular primary. So that is the thing that holds them
9 accountable, the -- on the L&A side.

10 Then the cybersecurity overall is State-owned equipment
11 but counties play a vital role throughout. So it is sort of
12 a -- I don't want to call it a partnership necessarily because
13 the legal authority to protect the equipment I believe lies
14 with the county. I'm not exactly positive how all of that
15 works. I just know that we kind of work together as a team.

16 We do the training on this. We provide the two-factor
17 authentication to get into our voter registration system. It
18 is not just voting machines. It is the entire ecosystem around
19 that.

20 We have to make sure that there are APIs where we exchange
21 information with the driver's license bureau comes in properly,
22 the death records coming in, and data management on that. That
23 is a State responsibility. When we push things out into the
24 cellular-based Poll Pad system, we have the voter registration
25 system which goes to another thing called E-Polls which then

1 runs the Poll Pads statewide.

2 And one of the advantages -- we chose to make an
3 investment to move to an updated Poll Pad system now because
4 one of the big risks that we can have is people getting the
5 wrong ballots. That is one of the big issues around
6 hand-marked paper, and even around the old BMD system because
7 you checked in on the voter registration system and then you
8 had to go to a separate device to encode the card.

9 Now you check in on the Poll Pad, and it encodes directly.
10 So the chance of a person picking the wrong ballot style and
11 disenfranchising someone from the bottom part of their ballot
12 is taken away. We can track that through log files all the way
13 through.

14 That was very advantageous in some municipal elections we
15 just had that were decided by one vote, and there were some
16 people who were concerned they were giving the wrong ballot to
17 people. We were able to verify that every person who voted got
18 the correct ballot.

19 So that is part of cybersecurity. The machines themselves
20 we train up the State -- unlike in most parts of the United
21 States, we pay for the seals. The State supplies those seals
22 to the counties. We train them on how to use them. We have
23 updated the chain of custody forms.

24 **Q.** All right. This is all helpful in stating it, but I think
25 that my question really ultimately is, is there somebody -- who

1 is that somebody in the State who -- in your office or in some
2 other one that is responsible for oversight of security in the
3 election system to the extent that it is the State's
4 responsibility?

5 **A.** Again, from my point of view, most of this lies in the
6 county level. For the system itself, we have a contract with
7 Dominion. We oversee the contract. But the State -- the
8 Secretary of State's office is consistently making investments
9 trying to make it better.

10 Is there some individual human being who says, this is
11 your sole position --

12 **Q.** Or an office?

13 **A.** I don't -- I can't say for certain on that one. I mean,
14 our office does more than anybody else does, specifically
15 focusing on that up and down the chain, so --

16 **Q.** Our office meaning?

17 **A.** The Secretary of State's office.

18 **Q.** As a whole?

19 **A.** As a whole.

20 And I would say the Elections Division and we -- I have
21 had a budget ask in right now trying to get more cybersecurity
22 people in that -- to pay for, and the Governor's budget, I
23 think, got me one Salesforce person which would oversee the
24 voter registration side. I'm trying to build out with the
25 Secretary's help, and hopefully the Governor and legislators'

C E R T I F I C A T E

UNITED STATES OF AMERICA

NORTHERN DISTRICT OF GEORGIA

I, SHANNON R. WELCH, RMR, CRR, Official Court Reporter of the United States District Court, for the Northern District of Georgia, Atlanta Division, do hereby certify that the foregoing 264 pages constitute a true transcript of proceedings had before the said Court, held in the City of Atlanta, Georgia, in the matter therein stated.

In testimony whereof, I hereunto set my hand on this, the 16th day of January, 2024.



SHANNON R. WELCH, RMR, CRR
OFFICIAL COURT REPORTER
UNITED STATES DISTRICT COURT

UNITED STATES DISTRICT COURT
OFFICIAL CERTIFIED TRANSCRIPT